

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 08934	DATE	1/3/2012
CASE TITLE	Moore vs. Medina-Maltes et al.		

DOCKET ENTRY TEXT

For the reasons given below, the Court denies Plaintiff's application to proceed *in forma pauperis* and for the appointment of counsel, and dismisses his complaint without prejudice.

■ [For further details see text below.]

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STATEMENT

Plaintiff Gregg Moore seeks leave to proceed *in forma pauperis* in his lawsuit challenging the denial of his application for citizenship, and asks this Court to appoint counsel for him. For the following reasons, this Court denies his motions and dismisses his complaint.

Plaintiff seeks to sue Martha Medina-Maltes and the United States Customs and Immigration Service. He seeks to challenge the denial of his application for naturalization, which was on the grounds of a) poor moral character and b) lack of prosecution. He objects that the lack of prosecution ground is an error, as he provided all of the requested forms. He also appears to object that the poor moral character assessment is unfounded because he provided USCIS with a statement of non-conviction regarding a charge of resisting or obstructing a peace officer from July 2010. Plaintiff also appears to argue that one or more judges in that criminal case violated his right to a jury trial and representation in a criminal proceeding.

To permit Moore to proceed *in forma pauperis*, the Court must find: (1) that Moore cannot pay the costs of the case; and (2) that the complaint is not frivolous, brought in bad faith, or unable to state a claim on which relief may be granted. 28 U.S.C. § 1915 (e). The Court liberally construes *pro se* filings, including applications to proceed *in forma pauperis*. See *Ricketts v. Midwest Nat. Bank*, 874 F.2d 1177, 1183 (7th Cir. 1989). The Court may request that an attorney represent a person unable to afford counsel. 28 U.S.C. § 1915 (e)(1).

There are several problems with Plaintiff's complaint. The first is that the suit is brought as one alleging a violation of constitutional rights, but the only constitutional rights that Plaintiff claims were violated relate to his criminal proceeding, in which Defendants had no part. The true purpose of the suit seems to be to seek judicial review of the denial of the naturalization petition. However, there is no allegation in the complaint that Plaintiff has completed the requisite internal appeals process before seeking review in the District Court. See 8 U.S.C. § 1421 (c). Accordingly, this Court concludes that Plaintiff fails to state a claim upon which relief can be granted, and the complaint is dismissed without prejudice to re-filing, if

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necessary, once that review process is complete.

Additionally, the Court notes that Plaintiff's financial affidavit in support of his motion to proceed *in forma pauperis* is improperly completed. Apart from acknowledging that he earned \$209 in April 2009, Plaintiff simply checked "No" in response to every question, and attached a Social Security statement that he receives no benefits. As a non-incarcerated person, Moore must have some means to survive; however, no income of any kind is accounted for on his application. This Court cannot grant Plaintiff's motion without an accurate picture of his financial situation. Accordingly, Plaintiff's application is denied without prejudice. If Plaintiff chooses to properly re-file his suit, he may therefore pay the filing fee or submit a revised application giving more complete financial information. The Court similarly denies Plaintiff's motion for appointment of counsel without prejudice.

There are several resources available to help Pro Se litigants. Information is available on the Northern District of Illinois website, <http://www.ilnd.uscourts.gov/home/ProSe.aspx>. There is also a Pro Se Assistance Program, available (by appointment only) by calling (312) 435-5691 or visiting the Clerk's Office Intake Desk on the 20th floor of the Courthouse, at 219 S. Dearborn St., Chicago, IL.